

**REMARKS**

The status of the parent application (Serial No. 09/09/560,420) is being updated, and a terminal disclaimer is being submitted to avoid any possibility of a double patenting problem with U.S. Patent 6,623,829 which has now issued on another division of the parent application.

Claims 29 - 31 (identified as Claims 32 - 34 in the body of the action) have been rejected under 35 U.S.C. §103 as being unpatentable over Ratcliffe (GB 2.186.864) in view of Davies (GB 1.402.962). Reconsideration and withdrawal of that rejection is requested.

There is no motivation and no logical reason for combining the particular teachings of Ratcliffe and Davies in the manner suggested by the Examiner. They are two entirely different devices. Davies pertains to a shopping bag which has point welds which, in addition to letting air escape, also permit the two walls of the bag to be pulled apart to open the bag without destroying it so that the bag can be reused for waste collection (Page 2, lines 32 - 41). The cushion shown in Ratcliffe already has air holes 3 arranged in a grid on both sides of the cushion, and there is no reason to add point welds to it. Moreover, the use of point welds would probably render the cushion of Ratcliffe unfit for its intended purpose since they could easily pop open and spill the contents of the cushion if the cushion were subjected to either a sudden impact or even a mild pressure. This is a clear case of impermissible hindsight reconstruction in which the Examiner is using applicant's own disclosure and claims as a blueprint for combining selected elements from two unrelated references when there is no basis for doing so in the references themselves or in any other prior art.

Claim 29 distinguishes over the references in calling for cushioning material comprising two superposed layers of flexible plastic film sealed together peripherally in discrete spaced apart areas to form a chamber, and a plurality of individual particles of loose fill packing material in the chamber, with the particles of loose fill packing material being free to move about within the chamber to conform to the shape of an object cushioned thereby and air being able to pass into and out of the chamber through spaces between the sealed areas.


Claim 30 depends from Claim 29 and is directed to patentable subject matter for the same reasons as its parent claim. It further distinguishes in specifying that the spaced apart sealed areas extend along lines at opposite ends of the chamber.

Claim 31 distinguishes in calling for a cushioning material comprising a length of flexible plastic tubing which is sealed together in a plurality of discrete areas which are spaced apart across the end portions of the tubing to form a chamber, and a plurality of individual particles of loose fill packing material in the chamber, with the particles of loose fill packing material being free to move about within the chamber to conform to the shape of an object cushioned thereby and air being able to pass into and out of the chamber through spaces between the sealed areas.

With this amendment, Claims 29 - 31 are all believed to be directed to patentable subject matter, and the application should be in condition for allowance.

The Commissioner is authorized to charge any fees required in this matter, including extension fees, to Deposit Account 50-2975, Order No. A-65550-2.

Respectfully submitted,

  
Edward S. Wright  
Registration No. 24,903

Law Offices of Edward S. Wright  
1100 Alma Street, Suite 207  
Menlo Park, CA 94025  
Telephone : (650) 330-0830  
Facsimile: (650) 330-0831  
Email: twright@claim1.com